

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed Official Action provided. Upon entry of the present paper, claim 1, 2 and 4 will have been amended, and claims 18-22 will have been added. No new matter has been added. Claims 1-22 are pending before the Examiner. Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate.

The Examiner has objected to claims 2 and 4, requiring an amendment to these claims to reflect the amendment made to claim 1 (from which these two claims depend) in Applicants' previous Amendment. Without agreeing to the propriety of the Examiner's objection, Applicants have amended these claims to reflect the amendment made to claim 1, and respectfully request withdrawal of this objection.

The Examiner has rejected claims 1-7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No.2001/0017984 to KABE, finding that this reference teaches all limitations of these claims.

Applicants respectfully traverse the Examiner's rejection. While Applicants respectfully disagree with the propriety of the outstanding rejection of the claims, solely in order to advance the prosecution of the present application, Applicant has amended independent claim 1 to generally recite that the sealing member extends between and including the shutter and the image pickup element, which should not be taken as an acquiescence to the propriety of the Examiner's rejection. No new matter has been added.

To the contrary, Applicant notes that the applied KABE reference (as shown, *e.g.*, in Figs. 2-4) merely discloses a lens barrel extending the length of the optical system as the "sealing member." Thus, this "sealing member" as identified by the Examiner does not extend between and include the

shutter 16 and the image pickup element 18, but rather extends outside these components. Therefore, Applicants respectfully submit that KABE fails to teach or render obvious the sealing member extending between and including the shutter and the image pickup element as recited in claim 1.

With respect to the Examiner's rejection of dependent claims 2-8, Applicants submit that these claims are dependent from allowable independent claim 1, which is allowable for at least the reasons discussed *supra*. Thus, these dependent claims are also allowable for at least the reasons discussed *supra*. Further, all dependent claims set forth a further combination of elements neither taught nor disclosed by any of the applied references.

Absent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied reference fails to disclose each and every element recited in independent claim 1 and the claims dependent therefrom, these claims (as well as newly-added claims 18-22) are not anticipated thereby. Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. § 102.

The Examiner has rejected claims 8-17 under 35 U.S.C. § 103(a) as being unpatentable over KABE in view of U.S. Patent No. 6,225,244 to OGUMA. With respect to independent claim 9, the Examiner has found that KABE teaches all limitations of this claim except the frame member being provided with at least one of a low-pass filter and an infrared absorption filter secured thereto, but has found that OGUMA teaches a frame member provided with at least one of a low-pass filter and an infrared absorption filter secured thereto.

Applicants respectfully traverse the Examiner's rejection. KABE and OGUMA when taken alone or in any proper combination, fail to disclose or render obvious at least a frame member configured to restrict an aperture which is opened and closed by the shutter, as recited in independent claim 9. With respect to KABE, Applicant notes that the Examiner has relied on the lens barrel outer

surfaces 22, 24 (“and other outer components”) for the teaching of the frame member; however, the lens barrel 22, 24 and its other outer components do not restrict the aperture which is opened and closed by the shutter. Specifically, since the shutter 16 of KABE is nested within the lens barrel 22, 24 and its other outer components, these elements cannot restrict the shutter aperture (as they are located outside of the shutter aperture, *see, e.g.,* Fig. 2).

Further, OGUMA, which the Examiner has used to supply the deficiencies of KABE (for the teaching of frame member being provided with at least one of a low-pass filter and an infrared absorption filter secured thereto), Applicants note that this reference merely discloses an optical filter, and completely fails to disclose a shutter, let alone a frame member.¹ Rather, the optical filter of OGUMA is not shown mounted to anything. Applicants thus submit that any proper combination of KABE and OGUMA would not render unpatentable the present claimed invention.

With respect to rejected dependent claims 8 and 10-17, Applicants note that since claim 8 is dependent from independent claim 1, and since claims 10-17 are dependent from allowable independent claim 9, which is allowable for at least the reasons discussed *supra*, these dependent claims (as well as newly-added claims 18-22) are also allowable for at least the reasons discussed *supra*. Further, all dependent claims set forth a further combination of elements neither taught nor disclosed by any of the applied references. It is thus respectfully requested that the Examiner withdraw the rejection of claims 8-17 under 35 U.S.C. § 103(a).

Thus, Applicants respectfully submit that each and every pending claim of the present application meets the requirements for Patentability at least under 35 U.S.C. §§102 and 103, and respectfully request the Examiner to indicate the allowance of each and every pending claim in the present application.

¹ Applicants have provided herein new dependent claim 22, which recites that the shutter is mounted on the frame member, a limitation neither disclosed or rendered obvious by the applied references.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or renders obvious the present claimed invention, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Makoto MOGAMIYA et al.

William S. Boshnir
Reg. No. 44,551



Bruce H. Bernstein
Reg. No. 29,027

July 7, 2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

{P23749 00165967.DOC}